

House Study Bill 582 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED SECRETARY OF
STATE BILL)

A BILL FOR

1 An Act relating to proof of identification and proof of
2 residence in order to register to vote or to vote, creating
3 a criminal offense for falsely swearing certain oaths,
4 providing penalties, and including applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

VOTER IDENTIFICATION REQUIREMENTS

Section 1. Section 39A.2, subsection 1, paragraph b, Code 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) Falsely swears to an oath required pursuant to section 49.77, subsection 3.

Sec. 2. Section 48A.7A, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. A person who is eligible to register to vote and to vote may register on election day by appearing in person at the polling place for the precinct in which the individual resides and completing a voter registration application, making written oath, and providing proof of identity and residence proof of residence pursuant to paragraph "b".

Sec. 3. Section 48A.7A, subsection 1, paragraph b, Code 2011, is amended by striking the paragraph and inserting in lieu thereof the following:

b. (1) For purposes of this section, a person may establish identity by showing proof of identification as required in section 49.77, subsection 3.

(2) For purposes of this section, a person may establish residence using a proof of identification document presented pursuant to section 49.77, subsection 3, if the proof of identification contains the person's current address in the precinct. If the proof of identification does not contain the person's current address in the precinct, the person shall also present one of the following documents that shows the person's name and current address in the precinct:

- (a) Utility bill.
- (b) Bank statement.
- (c) Paycheck.
- (d) Government check.
- (e) Other government document.

Sec. 4. Section 48A.7A, subsections 2 and 3, Code 2011, are amended to read as follows:

1 2. The oath required in subsection 1, paragraph "a", and
2 in paragraph "c", if applicable, shall be executed on the
3 same piece of paper and attached to the voter registration
4 application.

5 3. At any time before election day, and after the deadline
6 for registration in section 48A.9, a person who appears in
7 person at the commissioner's office or at a satellite absentee
8 voting station or whose ballot is delivered to a health care
9 facility pursuant to section 53.22 may register to vote and
10 vote an absentee ballot by following the procedure in this
11 section for registering to vote on election day. A person who
12 wishes to vote in person at the polling place on election day
13 and who has not registered to vote before the deadline for
14 registering in section 48A.9, is required to register to vote
15 at the polling place on election day following the procedure
16 in this section. However, the person may complete the voter
17 registration application at the commissioner's office and,
18 after the commissioner has reviewed the completed application,
19 may present the application to the appropriate precinct
20 election official along with proof of ~~identity and residency~~
21 identification and proof of residence.

22 Sec. 5. Section 49.53, subsection 1, Code 2011, is amended
23 to read as follows:

24 1. The commissioner shall not less than four nor more than
25 twenty days before the day of each election, except those for
26 which different publication requirements are prescribed by law,
27 publish notice of the election. The notice shall contain a
28 facsimile of the portion of the ballot containing the first
29 rotation as prescribed by section 49.31, subsection 2, and
30 shall show the names of all candidates or nominees and the
31 office each seeks, and all public questions, to be voted upon
32 at the election. The sample ballot published as a part of the
33 notice may at the discretion of the commissioner be reduced in
34 size relative to the actual ballot but such reduction shall not
35 cause upper case letters appearing in candidates' names or in

1 summaries of public measures on the published sample ballot to
2 be less than nine point type. The notice shall also state the
3 date of the election, the hours the polls will be open, that
4 all voters will be required to show proof of identification
5 before casting a ballot, the location of each polling place at
6 which voting is to occur in the election, and the names of the
7 precincts voting at each polling place, but the statement need
8 not set forth any fact which is apparent from the portion of
9 the ballot appearing as a part of the same notice. The notice
10 shall include the full text of all public measures to be voted
11 upon at the election.

12 Sec. 6. Section 49.77, subsection 3, Code 2011, is amended
13 by striking the subsection and inserting in lieu thereof the
14 following:

15 3. a. A precinct election official shall require the voter
16 to present for inspection proof of identification before being
17 allowed to vote.

18 b. For purposes of this section, "*proof of identification*"
19 refers to a document that satisfies all of the following:

20 (1) The document shows the name of the individual to whom
21 the document was issued which shall conform to the name on the
22 election register.

23 (2) The document shows a photograph of the individual to
24 whom it was issued.

25 (3) The document contains an expiration date that has
26 not been expired more than one year before the document is
27 presented as proof of identification. This expiration date
28 requirement shall not apply to voters casting ballots under
29 section 53.22.

30 (4) The document was issued by the government of the
31 United States, the state of Iowa, an Iowa public or private
32 university or college, an Iowa secondary school, or a political
33 subdivision of the state of Iowa. In the case of a document
34 issued by a political subdivision, the document shall be
35 issued not later than the close of voter registration for

1 the applicable election as set forth in section 48A.9 and
2 shall meet all other requirements established by the state
3 commissioner by rule.

4 *c.* In lieu of paragraph "b", a person wishing to vote may
5 establish proof of identity by written oath of an attesting
6 person who provides proof of identification pursuant to
7 paragraph "b". The attesting person's oath shall be in the
8 form prescribed by the state commissioner of elections and
9 shall attest to the stated identity of the person wishing to
10 vote. The oath shall advise the attesting person and the
11 person wishing to vote that falsely attesting to a voter's
12 identity is a class "D" felony. The oath must be signed by the
13 attesting person and the person wishing to vote in the presence
14 of the appropriate precinct election official. A person who
15 has signed an oath attesting to a person's identity as provided
16 in this paragraph is prohibited from signing any further oaths
17 as provided in this paragraph for the same election.

18 *d.* The commissioner shall, within forty-five days after
19 each election, review all attestations received under this
20 subsection and if any individual is found to have attested for
21 more than one voter in a particular election, the commissioner
22 shall immediately notify the state commissioner and the county
23 attorney.

24 Sec. 7. Section 49.77, Code 2011, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 3A. *a.* If a person is unable or refuses
27 to present proof of identification, or the precinct election
28 official determines the proof of identification presented by
29 the person does not qualify as proof of identification under
30 subsection 3, paragraph "b", the person shall be allowed to
31 vote.

32 *b.* This subsection is repealed December 31, 2013.

33 Sec. 8. Section 49.77, subsection 4, paragraph a, Code 2011,
34 is amended to read as follows:

35 *a.* A person whose name does not appear on the election

1 register of the precinct in which that person claims the right
2 to vote shall not be permitted to vote, unless the person
3 affirms that the person is currently registered in the county
4 ~~and presents proof of identity,~~ or the commissioner informs
5 the precinct election officials that an error has occurred
6 and that the person is a registered voter of that precinct,
7 and the person presents proof of identification pursuant to
8 subsection 3. If the commissioner finds no record of the
9 person's registration but the person insists that the person
10 is a registered voter of that precinct, the precinct election
11 officials shall allow the person to cast a ballot in the manner
12 prescribed by section 49.81.

13 Sec. 9. Section 49.81, subsection 2, paragraph b, Code 2011,
14 is amended to read as follows:

15 b. If the person is casting a provisional ballot because the
16 person ~~failed~~ was unable or refused to provide a required form
17 of identification pursuant to section 48A.7A, subsection 1,
18 section 48A.8, subsection 4, or section 49.77, subsection 4, a
19 list of the types of acceptable identification and notification
20 that the person must show identification before the ballot can
21 be counted.

22 Sec. 10. Section 53.10, subsection 2, Code 2011, is amended
23 to read as follows:

24 2. Each person who wishes to vote by absentee ballot at
25 the commissioner's office shall first sign an application for
26 a ballot including the following information: name, current
27 address, and the election for which the ballot is requested.
28 The person may report a change of address or other information
29 on the person's voter registration record at that time. The
30 person must also provide proof of identification pursuant
31 to section 49.77, subsections 3 and 3A, before receiving an
32 absentee ballot. Upon receipt of the absentee ballot, the
33 registered voter shall immediately mark the ballot; enclose
34 the ballot in a secrecy envelope, if necessary, and seal it
35 in an affidavit envelope; subscribe to the affidavit on the

1 reverse side of the envelope; and return the absentee ballot to
2 the commissioner. The commissioner shall record the numbers
3 appearing on the application and affidavit envelope along with
4 the name of the registered voter.

5 Sec. 11. Section 53.22, subsection 1, Code 2011, is amended
6 by adding the following new paragraph:

7 NEW PARAGRAPH. *d.* (1) Before receiving a ballot under
8 this subsection, each applicant shall present proof of
9 identification pursuant to section 49.77, subsection 3, to
10 the special precinct election board members. If an applicant
11 is unable or refuses to present proof of identification, the
12 applicant shall be allowed to vote.

13 (2) This paragraph "*d*" is repealed December 31, 2013.

14 Sec. 12. Section 321.190, subsection 1, paragraph *d*, Code
15 Supplement 2011, is amended to read as follows:

16 *d.* The fee for a nonoperator's identification card shall
17 be five dollars and the card shall be valid for a period
18 of five years from the date of issuance. A nonoperator's
19 identification card shall be issued without expiration
20 to anyone age seventy or over. If an applicant for a
21 nonoperator's identification card is a foreign national
22 who is temporarily present in this state, the nonoperator's
23 identification card shall be issued only for the length of time
24 the foreign national is authorized to be present as determined
25 by the department, not to exceed two years. An issuance fee
26 shall not be charged for a person whose driver's license or
27 driving privilege has been suspended under section 321.210,
28 subsection 1, paragraph "*a*", subparagraph (3), or for a person
29 obtaining an identification card to be used under section
30 49.77, subsection 3, for voting purposes. Identification cards
31 obtained for voting purposes shall be labeled by the department
32 as "For Voting Purposes Only".

33 DIVISION II

34 CONFORMING PROVISIONS

35 Sec. 13. Section 48A.8, subsection 2, unnumbered paragraph

1 1, Code 2011, is amended to read as follows:

2 An eligible elector who registers by mail and who has
3 not previously voted in an election for federal office in
4 the county of registration shall be required to provide
5 additional identification documents when voting for the first
6 time in the county, unless the registrant provided on the
7 registration form the registrant's Iowa driver's license
8 number, or the registrant's Iowa nonoperator's identification
9 card number, or the last four numerals of the registrant's
10 social security number and the driver's license, nonoperator's
11 identification, or partial social security number matches
12 an existing state or federal identification record with the
13 same number, name, and date of birth. If the registrant
14 is required to show additional identification under this
15 subsection and votes in person at the polls, or by absentee
16 ballot at the commissioner's office or at a satellite voting
17 station, the registrant shall provide a current and valid
18 photo identification card, or shall present to the appropriate
19 election official one of the following current documents that
20 shows the name and address of the registrant:

21 Sec. 14. Section 48A.8, subsection 4, Code 2011, is amended
22 to read as follows:

23 4. A registrant under subsection 2 who is required to
24 present additional identification when casting a ballot in
25 person shall be permitted to vote a provisional ballot if the
26 voter does not provide the required additional identification
27 documents pursuant to subsection 2. If a voter who is required
28 to present such additional identification when casting a ballot
29 votes an absentee ballot by mail, the ballot returned by the
30 voter shall be considered a provisional ballot pursuant to
31 sections 49.81 and 53.31.

32 Sec. 15. Section 48A.27, subsection 4, paragraph c,
33 subparagraph (2), Code 2011, is amended to read as follows:

34 (2) The notice shall contain a statement in substantially
35 the following form:

1 Information received from the United States postal service
2 indicates that you are no longer a resident of, and therefore
3 not eligible to vote in (name of county) County, Iowa. If this
4 information is not correct, and you still live in (name of
5 county) County, please complete and mail the attached postage
6 paid card at least ten days before the primary or general
7 election and at least eleven days before any other election at
8 which you wish to vote. If the information is correct and you
9 have moved, please contact a local official in your new area
10 for assistance in registering there. ~~If you do not mail in~~
11 ~~the card, you may be required to show identification before~~
12 ~~being allowed to vote in (name of county) County.~~ If you do not
13 return the card, and you do not vote in an election in (name
14 of county) County, Iowa, on or before (date of second general
15 election following the date of the notice) your name will be
16 removed from the list of voters in that county.

17 Sec. 16. Section 48A.29, subsection 1, paragraph b, Code
18 2011, is amended to read as follows:

19 *b.* The notice shall contain a statement in substantially the
20 following form:

21 Information received from the United States postal service
22 indicates that you are no longer a resident of (residence
23 address) in (name of county) County, Iowa. If this information
24 is not correct, and you still live in (name of county) County,
25 please complete and mail the attached postage paid card at
26 least ten days before the primary or general election and at
27 least eleven days before any other election at which you wish
28 to vote. If the information is correct, and you have moved,
29 please contact a local official in your new area for assistance
30 in registering there. ~~If you do not mail in the card, you may~~
31 ~~be required to show identification before being allowed to vote~~
32 ~~in (name of county) County.~~ If you do not return the card, and
33 you do not vote in some election in (name of county) County,
34 Iowa, on or before (date of second general election following
35 the date of the notice) your name will be removed from the list

1 of voters in that county.

2 Sec. 17. Section 48A.29, subsection 3, paragraph b, Code
3 2011, is amended to read as follows:

4 *b.* The notice shall contain a statement in substantially the
5 following form:

6 Information received by this office indicates that you are no
7 longer a resident of (residence address) in (name of county)
8 County, Iowa. If the information is not correct, and you still
9 live at that address, please complete and mail the attached
10 postage paid card at least ten days before the primary or
11 general election and at least eleven days before any other
12 election at which you wish to vote. If the information is
13 correct, and you have moved within the county, you may update
14 your registration by listing your new address on the card and
15 mailing it back. If you have moved outside the county, please
16 contact a local official in your new area for assistance in
17 registering there. ~~If you do not mail in the card, you may be~~
18 ~~required to show identification before being allowed to vote in~~
19 ~~(name of county) County.~~ If you do not return the card, and you
20 do not vote in some election in (name of county) County, Iowa,
21 on or before (date of second general election following the
22 date of the notice) your name will be removed from the list of
23 registered voters in that county.

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DIVISION III

25

VOTER IDENTIFICATION FOR 2014 ON

26 Sec. 18. Section 39A.2, subsection 1, paragraph b,
27 subparagraph (6), if enacted by this Act, is amended to read
28 as follows:

29 NEW SUBPARAGRAPH. (6) Falsely swears to an oath required
30 pursuant to section 49.77, subsection 3, or an affidavit
31 pursuant to section 49.81, subsection 5, paragraph "b".

32 Sec. 19. Section 49.77, Code 2011, as amended by this Act,
33 if enacted, is amended by adding the following new subsection:

34 NEW SUBSECTION. 3B. *a.* If proof of identification is
35 established under subsection 3, the person shall be allowed to

1 vote.

2 *b.* If a person is unable or refuses to present proof of
3 identification, or the precinct election official determines
4 the proof of identification presented by the person does
5 not qualify as proof of identification under subsection
6 3, paragraph “*b*”, or proof of identity under subsection 3,
7 paragraph “*c*”, the person shall be offered the option to vote a
8 ballot, but only in accordance with section 49.81.

9 Sec. 20. Section 49.81, subsection 1, Code 2011, is amended
10 to read as follows:

11 1. A prospective voter who is prohibited under section
12 48A.8, subsection 4, section 49.77, subsection 3B, paragraph
13 “*b*”, section 49.77, subsection 4, section 49.80, ~~or~~ section
14 53.19, subsection 3, or section 53.22, subsection 1, paragraph
15 “*e*”, from voting except under this section shall be notified by
16 the appropriate precinct election official that the voter may
17 cast a provisional ballot. The voter shall mark the ballot and
18 immediately seal it in an envelope of the type prescribed by
19 subsection 4. The voter shall deliver the sealed envelope to a
20 precinct election official who shall deposit it in an envelope
21 marked “provisional ballots”. The ballot shall be considered
22 as having been cast in the special precinct established by
23 section 53.20 for purposes of the postelection canvass.

24 Sec. 21. Section 49.81, subsection 2, paragraph b, Code
25 2011, as amended by this Act, if enacted, is amended to read as
26 follows:

27 *b.* If the person is casting a provisional ballot because
28 the person was unable or refused to provide a required form
29 of identification pursuant to section 48A.7A, subsection 1,
30 section 48A.8, subsection 4, ~~or~~ section 49.77, subsection 3B,
31 paragraph “*b*”, section 49.77, subsection 4, or section 53.22,
32 subsection 1, paragraph “*e*”, a list of the types of acceptable
33 identification and notification that the person must show
34 identification before the ballot can be counted.

35 Sec. 22. Section 49.81, Code 2011, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 5. *a.* If a voter casts a provisional
3 ballot pursuant to section 49.77, subsection 3B, paragraph
4 "*b*", the precinct election official shall indicate on the
5 provisional ballot envelope that the voter is casting a
6 provisional ballot due to the voter's inability or refusal to
7 present proof of identification.

8 *b.* At the time a provisional ballot is cast the voter may
9 also execute an affidavit in the form prescribed by the state
10 commissioner which shall be attached to the provisional ballot
11 envelope, affirming that the voter is the person the voter
12 claims to be and further affirming either of the following:

13 (1) The voter is indigent and is unable to obtain proof of
14 identification without the payment of a fee.

15 (2) The voter has a religious objection to being
16 photographed.

17 *c.* A provisional ballot cast pursuant to section 49.77,
18 subsection 3B, paragraph "*b*", which is accompanied by an
19 affidavit executed pursuant to paragraph "*b*" of this subsection
20 shall be presumed valid by the special precinct board and
21 shall be counted unless additional written statements or
22 documents are delivered to the commissioner's office prior to
23 the date provisional ballots are considered by the special
24 precinct election board and the special precinct election board
25 determines such additional evidence successfully rebuts the
26 presumption of validity.

27 Sec. 23. Section 53.22, subsection 1, Code 2011, as amended
28 by this Act, if enacted, is amended by adding the following new
29 paragraph:

30 NEW PARAGRAPH. *e.* Before receiving a ballot under
31 this subsection, each applicant shall present proof of
32 identification pursuant to section 49.77, subsection 3, to
33 the special precinct election board members. If an applicant
34 is unable to present proof of identification, the applicant
35 shall have an opportunity to execute an affidavit in the form

1 prescribed by the state commissioner of elections affirming
2 that the voter does not have and is unable to obtain proof of
3 identification and that the voter resides in a hospital or
4 health care facility and is casting a ballot pursuant to this
5 section. If the applicant refuses to execute an affidavit, the
6 voter's ballot shall be considered a provisional ballot cast
7 pursuant to section 49.81.

8 Sec. 24. APPLICABILITY. This division of this Act applies
9 to elections held on or after January 1, 2014.

10

EXPLANATION

11 This bill requires that a person provide certain proof of
12 identification at the time that the person votes and modifies
13 proof of identification and proof of residence requirements for
14 election day and in-person absentee registration.

15 Division I of the bill modifies the proof of identification
16 and proof of residence requirements for election day and
17 in-person absentee registration. The bill requires that
18 acceptable proof of identification is the same proof of
19 identification required of a voter who is already registered
20 to vote. The bill removes residential leases and property tax
21 statements from the list of acceptable documents to provide
22 proof of residence for election day and in-person absentee
23 registration.

24 The bill maintains current law allowing a person wishing
25 to vote to establish proof of identity and proof of residence
26 by written oath of a person who is registered to vote in the
27 precinct, but requires that the oath of the person wishing to
28 vote and the registered voter's oath be executed on the same
29 piece of paper.

30 Division I of the bill requires that a voter provide
31 proof of identification to a precinct election official
32 before being allowed to vote, and also requires that a person
33 wishing to vote by absentee ballot at a county commissioner
34 of elections office or at a satellite absentee voting station
35 present the same proof of identification. The bill requires

1 that acceptable proof of identification show the name of
2 the individual voter, include a photograph of the voter,
3 include an expiration date, and be issued by the government
4 of the United States, the state of Iowa, an Iowa public or
5 private university or college, an Iowa secondary school, or a
6 political subdivision of the state. The bill requires that
7 the expiration date not have been more than one year before
8 the document is presented to the precinct election official,
9 but exempts confined persons under Code section 53.22 from the
10 expiration date requirements.

11 The bill provides that, in lieu of providing identification
12 in order to vote, a person may establish proof of
13 identification by written oath of a person who provides their
14 own proof of identification and who attests to the voter's
15 identity. The bill provides that the oath shall be in the form
16 prescribed by the state commissioner of elections, and that the
17 oath shall attest to the stated identity of the person wishing
18 to vote. The bill makes it a class "D" felony to falsely swear
19 an oath pursuant to this provision. The bill requires that
20 the oath be signed by both the attesting person and the person
21 wishing to vote. The bill requires that the oath advise both
22 persons that falsely attesting to a voter's identity is a class
23 "D" felony. A class "D" felony is punishable by confinement
24 for no more than five years and a fine of at least \$750 but not
25 more than \$7,500. The bill provides that an attesting person
26 is prohibited from signing any additional such oaths for the
27 same election.

28 The bill also makes changes to the election notice
29 requirements produced by county commissioners of election,
30 requiring that election notices include a statement that all
31 voters will be required to show proof of identification before
32 casting a ballot.

33 The bill also provides that a person obtaining a
34 nonoperator's identification card for the purpose of voting
35 shall not be charged for the issuance of the nonoperator's

1 identification card. The bill requires that nonoperator's
2 identification cards issued to serve as proof of identification
3 for voting be labeled by the department as "For Voting Purposes
4 Only".

5 For elections held on or after January 1, 2014, Division
6 III of the bill provides that if proof of identification
7 is established the person shall then be allowed to vote.
8 If a person is unable or refuses to present proof of
9 identification, or if the precinct election official determines
10 that the proof of identification does not meet specified
11 requirements, the person shall be offered the option to vote
12 a provisional ballot. If a person is casting a provisional
13 ballot under these circumstances, the person shall receive a
14 printed statement giving notice of the types of acceptable
15 identification and notice that the person is required to show
16 acceptable identification before the provisional ballot can be
17 counted unless the voter executes an affidavit pursuant to Code
18 section 49.81, subsection 5. If a voter casts a provisional
19 ballot for these reasons, the precinct election official shall
20 indicate on the provisional ballot that the voter is casting
21 a provisional ballot due to the voter's inability or refusal
22 to present proof of identification. The bill provides that a
23 voter casting a provisional ballot for this reason may execute
24 an affidavit in the form prescribed by the state commissioner
25 of elections, affirming that the voter is the person the voter
26 claims to be and affirming that the voter is either indigent
27 and unable to obtain proof of identification without the
28 payment of a fee or that the voter has a religious objection to
29 being photographed.

30 The bill makes it a class "D" felony to falsify an affidavit
31 that attests to identity. A class "D" felony is punishable by
32 confinement for no more than five years and a fine of at least
33 \$750 but not more than \$7,500. The bill also provides that
34 any provisional ballot cast accompanied by such an affidavit
35 shall be presumed valid unless additional written statements

1 or documents are delivered to the county commissioner of
2 elections office prior to the date that provisional ballots
3 are considered and the precinct election board determines that
4 such additional evidence successfully rebuts the presumption
5 of validity.

6 Division II of the bill makes conforming changes to certain
7 required notices on forms related to voter registration and
8 registration by mail.

9 The bill requires that certain persons residing in a
10 hospital or health care facility who apply to vote by absentee
11 ballot shall present proof of identification. For elections
12 held on or after January 1, 2014, Division III of the bill
13 provides that if the applicant is unable to present proof of
14 identification they shall be able to execute an affidavit in
15 the form prescribed by the state commissioner of elections,
16 stating that the voter does not have and is unable to obtain
17 proof of identification and that the voter resides in a
18 hospital or health care facility. The bill further requires
19 that for elections occurring on or after January 1, 2014, if
20 the applicant refuses to execute such an affidavit and is
21 unable to present proof of identification, the voter is allowed
22 to cast a provisional ballot.